IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6945 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ANUPAM INDUSTRIES

Versus

KIRPALSINGH MANGALSINGH

Appearance:

1. Special Civil Application No. 6945 of 2002

MR AMAR N BHATT for Petitioner No. 1

MR TR MISHRA for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 19/12/2003

ORAL JUDGEMENT

Rule. Mr. TR Mishra, ld. advocate, waives service of Rule. At the joint request of the ld. advocates appearing for the parties, the matter is taken up for final hearing.

2. The present petition is filed being aggrieved by the impugned order dated 14.12.1998, produced at Annexure 'E' and order dated 25.1.2002 at Annexure 'G'. The facts of the case are that the learned Judge of the Labour Court, Ahmedabad, by judgment and award dated 14.12.1998 was pleased to allow Reference (LCA) No. 418 of 1988. The learned Judge was pleased to record in the said judgment and award that though the establishment has filed a written statement against the statement of claim of the workmen, has thereafter not remained present before the Court, has not cross-examined the workmen. The establishment was given repeated opportunities to produce their oral evidence and defend the case but then the establishment has failed in doing so. After the said judgment and award was passed on 14.12.1998 the establishment filed an application being Misc. Application No. 254 of 1999 in Reference (LCA) No. 418/1998 for restoring the reference on file. The said application is dismissed by order dated 25th January 2002.

3. The learned advocate appearing for the petitioner-establishment pointed out the documents which are produced at Annexure 'A' - notice dated 18.9.1987, the letter dated 23rd September 1987 produced at Annexure 'B', and a Schedule of the amount paid on 23.9.1987 at Annexure 'C'. Taking all into consideration, this Court is of the considered opinion that the matter is required to be remanded to the Labour Court quashing and setting aside the judgment and award dated 14.12.1998 and the order dated 25th January 2002.

4. Mr. TR Mishra, ld. advocate submitted that the establishment has remained negligent and has kept on lingering the matter before the Labour Court and therefore judgment and award dated 14.12.1998 should not be interfered with. He further submitted that judgment and order dated 25th January 2002 is absolutely in accordance with law and does not warrant any interference at the hands of this Court. After having considered the contentions of both the ld. advocates and taking into consideration the aforesaid documents produced on record the following order is passed.

"The petitioner-establishment is directed to pay an amount of Rs.6,500/-, on or before 31st December 2003 by depositing the same before the learned Judge of the Labour Court. The matter is remanded to the Labour Court with a direction that Reference being of 1998, top priority should be given to hear and decide the matter. Both the

learned advocates assure that their counterparts will cooperate fully so as to see that the Reference is decided within the aforesaid time frame."

5. The petition is disposed of accordingly. Rule is made absolute to the aforesaid extent only.

rmr. [Ravi R. Tripathi, J.]